REMARKS

This amendment is submitted in response to the Examiner's requirement for restriction and requirement of election of species.

Applicants have canceled claims 16 and 17, added claims 18 through 22, and amended claims 1 through 10 and 12 through 15 to comply with the formal requirements of US Patent Practice by eliminating alternative expressions. Antecedent basis for the new claims may be found in the application on pages 5 through 11. Applicants have drafted new method of treatment claims 18, 19, 20 and 22 as method of treatment claims, rather than as use claims, which are non-statutory. Thus claims 1 through 15 and 18 through 22 are now in the application and are presented for examination.

In response to the requirement for restriction, Applicants provisionally elect to prosecute the claims of Group I, with traverse.

In response to the requirement of election of species, Applicants elect the species of new claim 21. Antecedent basis for new claim 21 may be found in the specification on page 11 of the specification. All claims are readable on the elected species of claim 21. Note that Applicants have also included new method of treatment claim 22 limited to the administration of the therapeutic agent that is the elected species.

Now Applicants turn to the requirement for restriction. The claims of Groups I through III should all be examined in one application because there is a common technical feature linking all of the claims, notwithstanding the Examiner's argument that there is no such common technical feature. The therapeutic agents according to the present invention that contain (1) alpha-keto-glutaric acid, (2), at least one compound capable of forming azomethine and selected from the group consisting of 5-hydroxy-methylfurfural, dehydroascorbic acid, maltol and vanillin, 3)N-acetyl-seleno-L-methionine, and (4) N-acetyl-L-methionine, wherein compound (4) is present in excess of compound (3) constitutes a common technical feature common to all claims since this composition is prepared according to the process of preparation of the claims of Group II and is administered to patients with malignant tumors according to the method claims of Group III. The common technical feature linking all of the claims is that the therapeutic agent that contains ingredients (1) through (4) has superior anti-tumor activity to the closest prior art compositions disclosed in the prior art, namely, EP 326826 B1, which contains only ingredients (1) and (2). Accordingly Applicants respectfully request that the Examiner lift the requirement for restriction and examine all claims now presented.

Applicants have the following direct comments regarding the requirement for restriction:

The present application is the US national Phase of PCT/EP 2003/050712, therefore the PCT Rules apply with respect to unity of invention. In our understanding, this application is clearly drafted according to the PCT Rules; otherwise an objection would have been raised during the international phase of this application. There are officers of WIPO even claiming that objections as to unity are not at all allowed once an application has passed the international phase.

Article 27 National Requirements:

(1) No national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations.

Accordingly the restriction requirement should not be maintained.

Applicants await an action "on the merits".

Respectfully submitted,
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Enclosure:
None.